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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Nineteenth session

SUMMARY RECORD OF THE 32nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 17 November 1998, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Israel (continued) [(E/1990/5/Add.39); list of issues (A/C.12/Q/ISR/1); written replies of the Government of Israel (HR/CESCR/NONE/98/4)]

1. At the invitation of the Chairperson, the delegation of Israel took places at the Committee table.

Discrimination (continued) (paras. 5-8 of the list of issues)

2. Mrs. BONOAN-DANDAN asked how the land used for building bypasses had been acquired and to what extent those roads were accessible to all, Israelis, Palestinians and tourists alike, since they could be closed at any time.

3. Mr. ATLAN (Israel), replying to the questions on discrimination, in particular equality between Jews and Arabs in employment, said that a distinction had to be made between the public and private sectors. According to the Central Statistics Office, only 12 per cent of Arabs worked in the private sector, perhaps owing to the lower level of participation of Arab women. In the public sector, their participation in vocational training programmes also stood at 12 per cent, i.e. the same figure. Discrimination therefore did not exist in that area. In order to strengthen the participation of Arabs in the public service, the Government of Israel had been conducting an affirmative action policy since 1994 to promote job creation for Arabs. Currently, 2,476 Arabs, including 44 per cent of women worked in the public service. Despite budget restrictions in that sector, 80 jobs had been created in 1994, 40 in 1995 and 50 more since 1997. Unemployment was not directly linked to the Government's action; it was caused, inter alia, by macroeconomic factors and general economic conditions.

4. Mr. SADI said he wondered whether the fact that religious groups enjoyed considerable privileges was not prejudicial to secular groups in Israeli society, which were, consequently, the victims of discriminatory treatment.

5. Mr. ATLAN (Israel) said that the Ministry of Labour and Social Affairs also organized workshops for women and ultra-orthodox population groups on how to find jobs. Any affirmative action policy in favour of a particular group could, of course, be considered discriminatory in relation to another group.

6. In reply to the question whether the Supreme Court had taken decisions in favour of Palestinians, he said that at least three were worthy of note. In the Dawikat case (1979), for example, the Court had overturned an order to confiscate land belonging to Palestinians in order to build a settlement on the West Bank and, in the Tamimi case (1986), it had overturned the decision by a military governor to restrict the right to freedom of association of West Bank Palestinian lawyers.

7. Mr. BLASS (Israel) explained that, in a period of unemployment, the Government of Israel tried to ensure that foreign workers were employed above all in jobs for which market demand existed. That practice, often conducted on an experimental basis, had been reviewed by the ILO in relation to permits for Palestinian workers. It should be specified that a foreign worker entering Israel could also leave the country when he so wished or persuade another employer to apply for a permit. This situation was not, of course, ideal, but the same problems arose in various countries.

8. The question of the legal status of the Jewish Agency for Israel and the World Zionist Organization had been dealt with at length in written reply No. 6. An agreement had been concluded between each of those organizations and the State of Israel. The Jewish Agency thus funded and managed a whole range of activities. It organized the immigration of Jews to Israel, facilitated their integration into Israeli society, supported various cultural, scientific and social institutions and offered assistance to the elderly. Its activities were funded exclusively by the donations, contributions and bequests which it received and which were tax-exempt, in line with the procedure adopted in many countries.

9. Mrs. BONOAN-DANDAN asked what control the Government of Israel exercised over the various organizations of that kind, what links it had with them and who the beneficiaries of those organizations were. She repeated question No. 6, which was designed to shed light on how the Government ensured that the activities of those organizations did not hinder the observance of the State party's obligations under the Covenant and, in particular, under article 2 relating to non-discrimination.

10. Mr. ADEKUOYE, the CHAIRPERSON and Mr. RIEDEL asked whether, and how many other non-profit-making organizations enjoyed the same benefits.

11. If an Arab or Palestinian group wished to set up a charitable organization, would it enjoy exactly the same privileges? If not, would that not amount to discrimination under the provisions of the Covenant, in particular article 2?

12. Mr. BLASS (Israel) said he did not believe that other non-profit-making organizations enjoyed the same tax benefits, but could check with the Ministry of Finance whether that was in fact the case. As far as he was aware, other similar charitable organizations dealing with the settlement and integration in Israel of Jewish immigrants from all over the world did not exist. The activities of those organizations did not relieve the Government of Israel of its responsibilities in relation to the whole of the Israeli population and did not, in particular, prevent it from dealing with any of the different minorities. The Government had also decided to allocate $150 million to the Bedouin settlements in the north of the country.

13. The requests for tax exemption made by different organizations were examined by the competent authorities. That being the case, in the context of the activities of the Jewish Agency, the situation of Jews and Arabs was not the same since the Israeli Law on Return specified that any Jewish person, irrespective of his country of residence, had the right to immigrate to Israel and to acquire Israeli nationality. That particular right dated back to the

time when the State of Israel had been established; the United Nations had recognized the timeliness of establishing a Jewish State which was able to receive Jews from all over the world. The activity of the Jewish Agency was an integral part of that context and in no way undermined national laws or the Covenant. Furthermore, it was normal for each community to have available institutions designed to assist its members; the Waqf, which provided aid to Arab Israeli citizens, was an example of such an institution.

14. The CHAIRPERSON said that the Committee would like to know whether the Government granted special status to an organization such as the Jewish Agency.

15. Mr. SADI said that the problem also stemmed from the fact that lands made available exclusively to Jews belonged to the State, which allocated them to Jewish organizations. The fact that public property was granted to one section only of the Israeli population was therefore discriminatory.

16. Mr. GRISSA said that, by offering more credit to Jews than Arabs, the Jewish National Fund was obviously discriminatory. The difference in treatment between Jews and Arabs was also reflected in economic data, which showed, for example, that life expectancy and literacy rates were much higher among Jews than Arabs and that Jews enjoyed better living conditions than Arabs, although both groups lived in the same country.

17. Mr. BLASS (Israel), replying to the question on the allocation of land to the Jewish Agency, said that the Agency could be challenged even in Israel itself. The Supreme Court was currently trying a case (The Ka'adan case) in which an Arab-Israeli citizen was contesting the right of a private cooperative association, subsidized by the Jewish Agency, to prevent him from acquiring a housing unit in one of its housing projects. The case was undergoing mediation. If a decision was not reached, then the Supreme Court would decide. The fact that the Government allocated land to a certain section of the population only did not in itself constitute a discriminatory practice. The Israeli Government also granted land to other population groups with a legitimate need, for example, certain religious communities. It was implementing a land ownership policy for the Bedouins and had reserved a certain number of lots for them close to the Negev desert. Plots of land were sold to them at very low prices in order to encourage them to settle there. A Jewish citizen had requested one of the plots of land, but his application had been refused by the land administration. He had subsequently brought the case before the Supreme Court on the grounds that he had been discriminated against. It was therefore evident that the Israeli Government did not favour Jewish Israeli citizens in general, but tried to satisfy the specific needs of different population groups.

18. Replying to the questions about the West Bank bypasses, he said that those roads were accessible to both Jews and Palestinians. It was true that they were sometimes closed, generally following an explosion or an attack. At those times, all access roads, and not only bypasses, were closed for security reasons. Bypasses had been built to facilitate the implementation of the Oslo Agreement in order to rule out all possibility of friction and conflicts between Jews and Arabs. The expropriations which had become necessary for the

construction of roads had been carried out in accordance with normal procedure (public inquiries, etc.) in the case of private land. However, most of the roads constructed on the West Bank had been built on public land. Moreover, in full respect of the law, land had been seized by the military for a limited period of time in accordance with the international law in force in the occupied territories. The latter procedure was shorter and any decision handed down by the military could be contested in the Supreme Court. Nevertheless, the competent authorities had taken care not to cause any undue damage to Palestinian property. Besides, some bypasses were extremely narrow and, in several places, tunnels had been built to facilitate the passage of agricultural vehicles from one field to the next. As it turned out, the West Bank bypasses had had a positive effect on traffic, as they served to relieve traffic congestion in the towns. Persons whose land had been confiscated had been compensated, as in all cases of expropriation. When land was seized by the military for a given period, compensation was calculated on an annual basis in order to offset the loss in agricultural revenue by the Palestinians. Whenever the military expropriated land to construct roads, the owners were compensated for five years. At the end of that period, if the military still needed the road in question, then a new arrangement would be drawn up and compensation would again be awarded on an annual basis. In fact, expropriation procedures on the West Bank were not very different from those implemented whenever the State needed land to construct public buildings or roads. As for the closing of bypasses, it was true that road users were inconvenienced, but roads were closed for security reasons and for as brief a period as possible. As to the "Sharon-Burg" proposal, the Government had wanted to exclude the Jewish Agency from a three-way contract originally involving the State, the Jewish Agency and a cooperative association of settlers. The idea at the outset had been that, in compensation for its exclusion from the contract, the Jewish Agency would receive parcels of land in another location. However, that idea had not materialized and it was no longer being considered.

19. Mr. ATLAN (Israel), raising the issue of the disabled, said that Israel had recently passed a new law on the disabled which would enter into force on 1 January 1999. The text of the law, consisting of several chapters, could be consulted in the secretariat files. It provided, inter alia, for measures facilitating the access of disabled persons to their places of work and obliged employers to include disabled persons in their staff. The content of the law was unprecedented in Israel.

20. Mrs. JIMENEZ-BUTRAGUEÑO said that she would like to know whether disabled persons had easy access to public transport and buildings, whether the Government took measures to facilitate their access thereto and, in particular, whether disabled children could go to school.

21. Mr. ATLAN (Israel) said that, in decision H.C.70/81/93, the Supreme Court recalled the obligation to guarantee equal opportunities to the disabled, especially at school, and to pay the necessary price to do so (para. 53 of the report). The decision formed the basis of a law, deemed revolutionary by the Histadrut trade union, which made it incumbent upon the Ministry of Transport to take measures to ensure that the disabled could use public transport freely and without restriction.

The right to work (paras. 9-11 of the list of issues)

22. Mr. TEXIER said that, according to the ILO Committee of Experts on the Application of Conventions and Recommendations, the proportion of non-Jewish workers in relation to Jewish ones had decreased in the last few years, especially in higher education, scientific research, agriculture and management. He would like to know what measures the Government had taken to remedy the situation. It would seem that the law on equal opportunities, which was considered to be extremely progressive, was not, in fact, being fully implemented, no doubt because there was no commission to institute proceedings if it was not enforced. The unemployment rate of the Arab population of East Jerusalem was 35 per cent and 40 per cent of Arabs living in Jerusalem lived below the poverty line.

23. The number of Palestinians working in Israel had dropped by 28 per cent in 1993 and 20 per cent in 1994 and seemed to be only about 67,000. Over 15 per cent of them were unemployed. He wondered whether, in those conditions, obstacles to the free movement of such workers did not constitute a violation of their right to work, as they were often prevented from travelling to their place of work.

24. In connection with article 7 of the Covenant, the Committee on the Elimination of Discrimination against Women had found that the average wage of women was considerably lower than that of men and that many more women worked in the informal sector. He would like to know what measures the Government had taken to close the gap.

25. Turning to trade unions, he asked why the number of unionized workers had fallen, according to International Labour Organization figures, from 1,850,000 in 1985 to 450,000 in 1995.

26. According to the ILO Committee on Freedom of Association, the Government had taken emergency measures to limit the right to strike in the public sector and essential services. If that was so, it would constitute a violation of article 8 of the Covenant.

27. Mr. SADI asked to what extent increased unemployment could be blamed on the Government's privatization and liberalization policy and on the difficulties encountered in implementing the peace process. He also requested details on the reduction in social welfare assistance, including unemployment benefits.

28. Mr. BLASS (Israel) said that restrictions on the movement of Palestinian workers had been stepped up in 1993 owing to terrorist attacks. That being said, all married persons aged over 23 who had never threatened Israeli security could be issued with a permit authorizing them to work in Israel, where labour legislation would apply to them in the same way as to other workers. At present, some 60,000 Palestinian workers entered Israel every day to work legally. In addition, tens of thousands of persons entered to work illegally in certain sectors, such as agriculture and construction, and a further 15,000 worked in Israeli settlements on the West Bank and in the Gaza Strip. Certain workers were entitled to spend the night in Israel and some 20,000 persons were authorized to enter Israel for trading purposes.

29. The last time the border had been closed in September 1998, some 6,000 workers had been authorized to enter Israel. The Israeli Government was aware that income earned in Israel by Palestinian workers and merchants was instrumental in strengthening the country's security. It was no secret that destitution could cause resentment. Israel was therefore trying to facilitate the employment of Palestinian workers, while ensuring its security and protecting the interests of Israeli workers, who were also affected by unemployment.

30. Mr. ATLAN (Israel) said that, under the Male and Female Workers Equal Pay Law, NGOs and trade unions could refer any violation of the provisions of that law to the Labor Court, which was empowered to appoint a job-analysis expert responsible for verifying whether the complaints were well founded. Despite the absence of a committee responsible for enforcing that law, it was therefore quite possible to ensure that the rights it contained were upheld. It was too soon to evaluate the law's impact, but the very fact of its adoption showed that Israel was making efforts to give effect to the principle of "equal pay for work of equal value".

31. On the subject of unionization, he pointed out that, until 1995, membership in the Histadrut had been linked with membership in the General Health Fund, which was the main provider of health services in the country and was affiliated to the Histadrut. That link had been severed in 1995, when the new National Health Insurance Law had remodelled the system of funding of health providers, resulting in a cut in the membership of the Histadrut, in which trade union activities were today undoubtedly the most important. It was very difficult to determine the precise number of trade union members. For instance, the Histadrut refused to disclose its exact membership numbers (see paras. 215 and 216 of the report).

32. Turning to civil servants' right to strike, he said that, under the emergency powers vested in it, the State could order individual workers who performed tasks crucial to the safeguard of vital public interests to stay at work. However, the use of emergency orders was dependent upon approval by the Cabinet and the grounds for each individual order to be issued was checked by the Attorney-General's Office. However, those emergency measures had never had any decisive effect on the progress of a strike.

33. Unemployment affected young Jewish workers living in development areas as much as it did the Arab population.

34. Mr. BLASS (Israel) said that the right to strike was now firmly entrenched in the country's legislation, in its case law and in practice. A short while previously, for example, rather than coerce Ministry of the Interior officials who had gone on strike and had thus threatened to impede the progress of the municipal elections, the Government had authorized voters who were unable to obtain an identity card because of the strike to present other documents so as to be able to vote.

35. Mr. ADEKUOYE asked whether Israelis of Ethiopian origin were worse hit by unemployment than other segments of the population. He also wished to know why, under the National Health Insurance Law 1994, foreign workers were

deprived of access to health insurance services (para. 133 of the report). He requested details on any secret measures taken by the Government to restrict civil servants' exercise of the right to strike.

36. Mr. CEAUSU said that, in its written reply to the question of enforcement of the Minimum Wage Law, Israel had reported that the number of violations of that law had still been high during the first quarter of 1998 (540 reports of violations affecting foreign workers), while the number of Jews affected had been small (27 reports). It would seem that foreigners did not enjoy adequate protection in that field and that they continued to be victims of employer violations in that regard. The Committee would need to issue a recommendation designed to guarantee better protection of the rights of foreign workers in Israel.

37. Mr. AHMED said that, according to an Israeli NGO, the Israeli courts had held factory strikers liable in civil law for the damage caused during the strike. Was that true? Had there been any other similar cases in Israel?

38. Mrs. BONOAN-DANDAN asked why deductions for the Histadrut were automatically made from the salary of Palestinian workers even if they did not want to become members of that union. Furthermore, unemployment had partly been blamed on Palestinian and foreign workers, but the statistics showed that, since 1990, their numbers had been decreasing, from 114,000 to 35,000.

39. Mr. ATLAN (Israel) replied that the employment policy implemented by the Israeli Government was based partly on action to combat inflation, which had stood at 400 per cent in 1985 and had progressively decreased as a result of various measures that had been taken to reduce the State deficit and that any Government in power was obliged to take.

40. The number of Palestinian workers in Israel and in the settlements was higher than the quoted figure. There were at least 60,000 legal workers in Israel and 15,000 in the settlements. The exact number of illegal workers was not known, but it was high.

41. The 1997 change in the Minimum Wage Law had been only to increase the amount of the wage and had not been structural. That demonstrated that the Israeli Government was making a special effort to help foreign workers.

42. With regard to the fee paid to the Histadrut, workers could either join a union or pay an amount that was smaller than the membership fee to the largest union in their branch for services such as the negotiation of collective bargaining agreements. That did not apply only to Palestinian workers; all workers were subject to that obligation. During the consideration of the issue by the ILO, it had not been a problem. The case of the strikers found guilty by the Israeli courts was the only one of its kind. It should be pointed out that the courts found strikers guilty only when a strike was illegal, and that was rare.

43. With regard to the Israeli national insurance system, only residents and not foreign workers could join it. There was nothing discriminatory in that; it was perfectly normal that the advantages accruing to long-term residents should not be the same as those of foreigners residing in the country only

briefly. In order for a work permit to be issued, the employer had to ensure that the candidate was covered by an insurance scheme. An amendment to the Foreign Employees Law was currently being considered by the Knesset.

44. Mr. SHANY (Israel), referring to the issue of the right to education, said that a pilot study was currently being carried out in 80 Israeli schools over a three-year period, at the conclusion of which it would be extended to a larger number of schools.

45. Mr. ADEKUOYE, referring to paragraphs 142 and 145 of the report, asked whether there was not a risk that stricter supervisory control of the labour market would result in the exploitation of foreign workers.

46. Mr. ATLAN (Israel) said that any employer who failed to fulfil his obligations was fined or had to pay what he owed to his workers. The policy of stricter supervision which was being implemented would protect the rights of workers and would not harm anyone.

Closure and its effects on the enjoyment of economic, social and cultural rights (paras. 12-16 of the list of issues)

47. Mr. CEVILLE asked whether the closure of the territories was not discriminatory in some respects. He was thinking particularly of the city of Hebron, which Palestinians had not been able to leave following the events of 1994, whereas Jews had been free to come and go.

48. Mrs. JIMENEZ BUTRAGUEÑO asked what measures the Israeli Government was taking to alleviate the effects of closures on the enjoyment of economic, social and cultural rights.

49. With regard to the issue of family reunification, it appeared from an NGO report that Israel did not recognize that right for Palestinians in the occupied territories. The 2,400 permits issued each year were issued under grace and favour, not obligation. Yet the number of requests for family reunification was reported to be around 13,000. Why did Israel take such an attitude, which entirely failed to take account of the needs of families and particularly of children?

50. What was the Israeli Government doing to combat child labour and prevent juvenile delinquency?

51. Mrs. BONOAN-DANDAN said that she would like the Israeli delegation to give further information on closures, particularly in relation to the right to health and the right to education. According to the organization Save the Children, closures had had serious repercussions on the health of children, who were deprived particularly of fresh food and dairy products and suffering from scurvy and anaemia. Medical personnel were not able to reach their places of work and patients, stopped at checkpoints, were deprived of health care and in some cases even died. Free health care was, moreover, refused to Palestinians residing in East Jerusalem, but not in possession of a permit.

52. Closures were also prejudicial to the right to education: it appeared that 33,000 students and 15,000 teachers had been denied access to educational

establishments. Since 26 February 1996, 1,200 students from Gaza had apparently not had access to the University of the West Bank, also as a result of the closures.

53. Mr. RIEDEL said he hoped that a precise answer would be given to the question in the list of issues on what alternatives the Government offered during times of closure, to ensure the protection of the right to food of residents of the occupied territories. That was a fundamental right from which there could be no derogation, even under article 4 of the Covenant.

54. He would also like to know what measures the Israeli Government had taken in that regard since the United Nations Special Rapporteur on the situation in the Palestinian territories occupied by Israel since 1967 had reported to the Commission on Human Rights in March 1998. Perhaps a progress report could be submitted.

The meeting rose at 6 p.m.